

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILFREDO ROSADO,

Plaintiff,

-against-

CITY OF NEW YORK, CORRECTION OFFICER
DAVID VALDEZ, Shield No. 11712, CORRECTION
OFFICER G. ALTSCHULER, Shield No. 1265,
CAPTAIN J. GONZALEZ, Shield No. 842,
CORRECTION OFFICER K. HALL, Shield No. 11816,
CORRECTION OFFICER F. CAMMARATA, Shield No.
40002,

**RULE 68
OFFER OF JUDGMENT**

11-CV-4285 (SAS)

Defendants.

----- X

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendant City of New York hereby offers to allow plaintiff WILFREDO ROSADO to take a judgment against it in this action for the total sum of TWO THOUSAND AND ONE DOLLARS (\$2,001), plus reasonable attorneys' fees, expenses and costs to the date of this offer for plaintiff's federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants, both served and unserved, City of New York, "Correction Officer David Valdez," "Correction Officer G. Altschuler," "Captain J. Gonzalez," "Correction Officer K. Hall," and "Correction Officer F. Cammarata," or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted up to and including November 7, 2011.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by any defendant, or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants, both served and unserved, City of New York, "Correction Officer David Valdez," "Correction Officer G. Altschuler," "Captain J. Gonzalez," "Correction Officer K. Hall," and "Correction Officer F. Cammarata," their successors or assigns, and all past and present officials, employees, representatives and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff in the above-referenced action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff agrees that payment of TWO THOUSAND AND ONE DOLLARS (\$2,001) within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide payment in full or in part. If plaintiff is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, plaintiff agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as

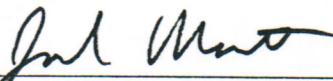
secondary payer and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26. Plaintiff further agrees to hold harmless defendants, regarding any past and/or future Medicare payments, presently known or unknown made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York
October 21, 2011

MICHAEL A. CARDODOZ
Corporation Counsel of the
City of New York
Attorney for Defendant City of New York
100 Church Street, Room 3-168
New York, New York 10007
(212) 788-1300

By:


Joseph A. Marutollo
Assistant Corporation Counsel
Special Federal Litigation Division

To: Ilissa Brownstein (By First Class Mail)
Attorney for Plaintiff
22 Courtlandt Street
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New York, NY 10007

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Defendants

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MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendant City of New York
100 Church Street
New York, New York 10007
Of Counsel: Joseph A. Marutollo
Tel: (212) 788-1300

Due and timely service is hereby admitted.

New York, N.Y....., 2011

..... Esq.

Attorney for.....